



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|-----------------------|------------------------|
| 10/647,519         | 08/26/2003             | Michael M. Fainzilber | 2314-269               |

6449  
 ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
 1425 K STREET, N.W.  
 SUITE 800  
 WASHINGTON, DC 20005



CONFIRMATION NO. 5270

## FORMALITIES LETTER



\*OC000000012014125\*

Date Mailed: 03/03/2004

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS  
 CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE  
 DISCLOSURES**

*Filing Date Granted*

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 CFR 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

**For questions regarding compliance to these requirements, please contact:**

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or [patin3help@uspto.gov](mailto:patin3help@uspto.gov)

Replies should be mailed to: Mail Stop Missing Parts  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

Z. Kravja

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY



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IPW

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
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| 10/647,519         | 08/26/2003            | Michael M. Fainzilber | 2314-269               |

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 SUITE 800  
 WASHINGTON, DC 20005



CONFIRMATION NO. 5270  
 ABANDONMENT/TERMINATION  
 LETTER



\*OC000000014678394\*

COPY

Date Mailed: 12/06/2004

**NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)**

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 03/03/2004.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*R121*  
*A copy of this notice MUST be returned with the reply.*

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PART 1 - ATTORNEY/APPLICANT COPY

Notice of Abandonment }

This application is abandoned in view of applicant's failure to timely file a proper reply to the Office notice mailed on 03-03-04.

Petition to Withdraw the Holding of Abandonment

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP § 512); or
3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be transmitted by facsimile directly to OIPE Customer Service at (703) 308-7751.

Petition to Revive an Abandoned Application

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of UNAVOIDABLE DELAY must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by:

1. an adequate showing of the cause of unavoidable delay;
2. the required reply to the above-identified notice;
3. the petition fee set forth in 37 CFR 1.17(i); and
4. a terminal disclaimer if required by 37 CFR 1.137(d).

See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of UNINTENTIONAL DELAY must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by:

1. a statement that the entire delay was unintentional;
2. the required reply to the above-identified notice;
3. the petition fee set forth in 37 CFR 1.17(m); and
4. a terminal disclaimer if required by 37 CFR 1.137(d).

See MPEP § 711.03(c) and Form PTO/SB/64.

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Any questions regarding this notice should be directed to OIPE Customer Service at (703) 308-1202.



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| 10/647,519         | 08/26/2003            | Michael M. Fainzilber | 2314-269               |



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*R13L*  
*A copy of this notice **MUST** be returned with the reply.*

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PART 2 - COPY TO BE RETURNED WITH RESPONSE



THE  
UNITED STATES  
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OFFICE

|                      |                              |
|----------------------|------------------------------|
| Application Number   | 10/647,519                   |
| Filing Date          | 26 August 2003               |
| First Named Inventor | Michael M. FAINZILBER et al. |
| Group Art Unit       | 1644                         |
| Examiner Name        |                              |
| Attorney Docket No.  | 2314-269                     |

Title of the Invention: GAMMA-CONOPEPTIDES

**REQUEST FOR WITHDRAWAL OF NOTICE OF ABANDONMENT**

Director of the United States  
Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1540

Dear Sir:

A Notice of Abandonment was mailed for the above application on 06 December 2004, indicating as the reason for abandonment "Applicant's failure to timely and properly reply to the Notice to File Missing Parts mailed on 03 March 2004." Withdrawal of this Notice is requested, in view of the following remarks.

The *Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures* that was mailed from the PTO on March 3, 2004, was never received in our office. Because of what appears to be an incomplete address on the envelope, the Notice was undeliverable and returned to the PTO. With the exception of the Notice of Abandonment, no further Notices were received on the above case. The fact that this paper was never received in our office is demonstrated by the attached copy of image file wrapper for this application, which shows that "Mail returned to USPTO as undelivered." A copy of the "mail returned to USPTO as undelivered" as retrieved from PAIR is attached and shows that the address was incomplete, i.e., no city and state were included on the address label. The firm's address

Serial No.: 10/647,519

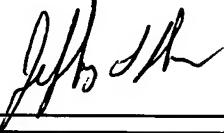
Request for Withdrawal of Notice of Abandonment

Page 2

remains 1425 K Street, N.W., Suite 800, Washington, D.C. 20005. If the address label had contained the complete address when received by the U.S. Postal Service, the paper should have been delivered to our office.

In view of the above facts and the response to the Notice to Comply filed concurrently herewith, it is requested that the Notice of Abandonment be withdrawn. Applicants would appreciate prompt notification that this action has been taken.

If any fees are deemed to be due in connection with the above matter, the same should be charged to our Deposit Account No. 02-2135. This paper is submitted in triplicate.

|                                |  |           |              |          |                  |
|--------------------------------|--|-----------|--------------|----------|------------------|
| <b>RESPECTFULLY SUBMITTED,</b> |  |           |              |          |                  |
| NAME AND<br>REG. NUMBER        | Jeffrey L. Ihnen, Reg. No. 28,957  |           |              |          |                  |
| SIGNATURE                      |  |           |              | DATE     | 20 December 2004 |
| Address                        | ROTHWELL, FIGG, ERNST & MANBECK, pc<br>1425 K Street, N.W., Suite 800              |           |              |          |                  |
| City                           | Washington   | State     | D.C.         | Zip Code | 20005            |
| Country                        | U.S.A.   | Telephone | 202-783-6040 | Fax      | 202-783-6031     |

Attachments

Organization  
U.S. DEPARTMENT OF COMMERCE  
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IF UNDELIVERABLE RETURN IN TEN DAYS



Bldg. Room \_\_\_\_\_

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| APPL NO.   | FILING OR 371<br>(C) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET |
|------------|---------------------------|----------|---------------|-------------|
| 10/647,519 | 08/26/2003                | 1644     | 501           | 2314-261    |

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JC-404